

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

LANCE McDERMOTT,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,

Defendants.

No. C05-0860L

ORDER DENYING DEFENDANT'S  
SECOND MOTION TO DISMISS

This matter comes before the Court on the "United States' Motion to Dismiss the Claims in Plaintiff's Pleading Amendment for Lack of Subject Matter Jurisdiction." Dkt. # 33. Plaintiff's attempt to amend his complaint on April 5, 2006, by filing a "Pleading Amendment" (Dkt. # 31) was ineffective. Pursuant to Fed. R. Civ. P. 15(a), plaintiff was entitled to amend his complaint once as a matter of course prior to the time defendant filed its first motion to dismiss. This he did by submitting the "Pleading Title: 890 -- Other Statutory Actions" on August 15, 2005. This version of the complaint became the operative pleading in this matter, superseding the original complaint and exhibits filed on May 9, 2005. Plaintiff's subsequent attempts to amend or supplement his complaint, including Dkt. # 12, 13, and 31, are ineffective because plaintiff did not obtain leave of Court or the written consent of defendant as required by Rule 15(a). The Court will not consider, and defendant need not respond to, the allegations or requests for relief contained in Dkt. # 12, 13, and 31. Defendant's second motion to dismiss is

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1 therefore DENIED as moot.

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3 DATED this 15th day of June, 2006.

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6 Robert S. Lasnik  
7 United States District Judge  
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